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STATEMENT OF  
HONORABLE NEIL E. GOLDSCHMIDT,  
SECRETARY OF TRANSPORTATION,  
BEFORE THE SENATE COMMITTEE ON  
COMMERCE, SCIENCE AND TRANSPORTATION,  
SEPTEMBER 25, 1979,  
REGARDING MOTOR CARRIER REGULATORY REFORM AND  
MOTOR CARRIER SERVICE TO SMALL COMMUNITIES

Mr. Chairman and Members of the Committee:

I am pleased to be with you today to reaffirm the Administration's commitment to reform of the motor carrier regulatory system and, in particular, to discuss trucking regulation and small community service.

Mr. Chairman, the Administration's trucking regulatory reform bill is an integral part of the President's program to conserve energy and fight inflation. This reform legislation will save hundreds of millions of gallons of fuel, improve service for shippers, and save consumers billions of dollars each year by reducing the prices of goods that are transported by truck.

I know that this Committee has already heard Administration witnesses make the case for reform. However, before I describe why our bill would improve truck service in small communities, let me briefly review some of the ways in which our reform legislation would improve trucking service and help meet national energy conservation and anti-inflation goals.

## Entry

Limitations on entry which are part of the present regulatory system stifle competition, resulting in rates that are higher than they would be otherwise.

Traditionally, the Interstate Commerce Commission (ICC) has limited entry by placing great weight on the impact of new entrants would have on already authorized truckers, rather than stressing the impact on consumers and shippers. Times are changing and we sense a new and more open attitude on entry at the ICC. But there are still problems. The ICC's application procedure is loaded with red tape and tends to be lengthy and expensive. For example, one small carrier is presently waiting, after four months, for the ICC to publish his application in the Federal Register so that review of that application can begin.

More importantly, the operating rights granted by the ICC are generally very limited and don't promote competition or efficient operations. The ICC will grant new authority for commodities such as inedible tallow and empty ginger ale bottles. However, it generally does not grant authority to carry a large number of commodities, the kind of authority that would allow an entrant to compete directly with existing carriers.

This pattern of regulation encourages applicants to limit the scope of their operating authority requests. This approach tends to lower the number of protests from established carriers, increasing the likelihood that an application will be granted. In fact, the ICC has published a booklet advising prospective applicants to follow this strategy.

These practices cause significant inefficiencies. Operators with authority to carry only a few commodities cannot easily fill their truck, particularly on backhauls. Thus, the system results in amply and partially filled trucks on the highways, which means wasted fuel and time and increased shipper and consumer costs.

This system of entry regulation also makes it particularly hard for minority businesses and other smaller trucking firms to get the chance to compete with established carriers. Small businesses cannot afford to wait months to obtain decisions on their applications, or pay the legal fees associated with contested entry proceedings. Thus, it is not surprising that a recent DOT-sponsored study found that minority applicants for ICC operating authority are less likely to obtain authority than their non-minority counterparts.

Largely as a result of the regulatory barriers to entry, few minority trucking firms are engaged in interstate operations today. In fact, an ICC study released this March found that only 133 of the more than 16,000 ICC-regulated motor carriers were minority owned.

Our reform legislation would lift barriers to entry, bringing the benefits of competition to the interstate trucking industry and providing opportunities for small businessmen and minorities. Also, by removing restrictions, the bill will result in broader grants of operating authority, making trucking operations more efficient. Both of these changes will mean lower prices for consumers and some relief from inflation.

Restrictions on Private and Independent Truckers

ICC restrictions on the operations of regulated, private, and independent truckers waste fuel and lead to inflated industry-wide costs and rates -- and every consumer in this country pays higher final product prices because these operating restrictions increase trucking costs.

I have just described some of the restrictions that are placed on ICC-regulated carriers. There are also significant regulatory impediments to efficient private trucking operations. While common carriers may offer their services to companies with private truck fleets, private truckers have limited rights to compete with common carriers for the traffic of other shippers. In fact, at present, private truckers are not even allowed to compete fully with regulated carriers for the traffic of their corporate affiliates. ICC regulations also prevent private carriers from entering into short term "trip leasing" arrangements with regulated carriers.

While the ICC has moved to ease restrictions on private truckers, the present system still compels shippers who use private trucking to accept much higher levels of either empty or partially utilized trucking capacity than regulated carriers, and discourages others from ever using private trucking. Empty backhauls, for example, are twice as frequent for private fleets (53.4 percent) as they are for ICC-authorized carriers (24.4 percent). And while non-regulatory factors account for some of this difference, we believe that private fleets are inefficiently used because of economic regulation. Despite the fuel waste and other higher costs that such restrictions imply,

however, shippers continue to turn to private trucking because they are not satisfied with the services provided and rates charged by regulated carriers.

Owner-operators are also less efficient and are forced to travel empty miles because of present regulations. Many independent truckers carry unprocessed agricultural products, which are not subject to ICC regulation. However, because of regulatory restrictions, the same operators cannot carry processed food away from the plants where they deliver the unprocessed products. Grain is an unregulated commodity, which may be carried from farm to market. But when grain is treated with additives to make it feed, only an ICC licensed carrier can haul it back to the farm. In many instances, ICC decisions arbitrarily limit what can be carried by independent truckers: crab shells are exempt, oyster shells are not; whole wheat is exempt, wheat germ is not. Our bill would remove these kinds of restrictions, saving fuel, increasing the trucker's average load, and eliminating empty hauls back to farming communities.

We also feel it is essential that the commodity exemption be expanded so that exempt truckers are allowed to carry back to the farm implements, machinery, seed, fertilizer and other essential agricultural goods. The commodity reforms should lower the cost of and improve trucking service to and from agricultural areas, many of which are small communities. Lowering these costs should help reduce farm costs and food prices.

Rates and Rate Bureaus

The present regulatory system permits motor carriers to come together in rate bureaus and propose, discuss and vote upon freight rates. In virtually all other industries, such collusive activity would violate the antitrust laws. Rate bureaus inhibit pricing innovations and deprive shippers of the kind of service and rates that would be available in a more competitive environment.

A large body of evidence also shows that the rates of regulated carriers are higher than they would be if the market were allowed to play a greater role in pricing decisions. Analyses of comparable freight shipments moved in regulated and unregulated markets consistently show that lower truck rates are found in unregulated markets. For example, unregulated intrastate rates in New Jersey are approximately 15 percent lower than rates for comparable interstate shipments.<sup>1/</sup> The expansion of the agricultural exemption in the mid 1950's led to rate decreases of 19 to 33 percent for various commodities. Lower rates, however, do not mean inferior service. Shippers who use unregulated carriers have been satisfied with the service received, which partly explains why so many farm groups, for example, have endorsed the Administration's legislation.

It is clear, Mr. Chairman, that price competition would benefit users of trucking services and help in the fight against inflation. truckers to engage in collective ratemaking. The bill would also

1/ W.B. Allen, et al., The Unregulated Trucking Experience in New Jersey, prepared for the U.S. Department of Transportation, DOT-OS-70067 July 1978.

Our bill would eliminate the special antitrust exemption that permits establish a pricing zone within which carriers could raise and lower their rates without ICC approval. Pricing competition, not collusion, is what is needed to ensure that reasonable rates are available to shippers.

#### Safety

Let me also mention one thing that regulatory reform will not do -- it will not adversely affect trucking safety. The Administration has carefully considered allegations that there is a causal relationship between commercial motor vehicle safety and economic regulation, and we have found these allegations wanting.

Mr. Chairman, the safety of the transportation system is a top priority with me and, as you know, the Administration bill would provide the Department with the tools needed to assure a high level of truck safety.

#### Other Issues

Mr. Chairman, the trucking industry is large and multi-faceted and I know more could be said about how certain reforms could help reduce inefficiencies, fight inflation and save energy. I also know this Committee is interested in these issues and other truck issues, such as sizes and weight.

However, I would like to spend the balance of my time today describing the kind of trucking service small communities receive today, and how our legislation would raise that level of service.

### Service to Small Communities

As you know, recent debates on trucking regulatory reform have increasingly focused on whether such reforms can be accomplished without reducing the level of truck service available to small communities.

I want to commend youo, Mr. Chairman, for holding hearings on this important issue. I know that you are concerned about small community service and the Administration shares your concern. My staff and I are available to provide the Committee with any assistance we can as you continue to study this matter.

The Administration studied the problem of small community service before proposing reform legislation and our bill includes specific measures designed to promote this service which are not found in present law. Also, continuing study of this issue has convinced us more than ever that small communities, as well as the general public, will benefit from motor carrier regulatory reform, that the present regulatory system does not promote small community service, but actually impairs it in several respects.

### Small Community Service Under the Present System

#### The Cross-Subsidy Argument

Opponents of regulatory reform often allege that the current regulatory system promotes small community service by allowing carriers to take excess profits they earn from service to larger communities to cross-subsidize losing service to small communities. This argument is simply not valid. According to our studies, serving small communities

can be quite profitable either in its own right or for providing necessary "feed" traffic that makes a carrier's entire service network profitable.

Other factors fail to support the existence of any cross subsidy. Neither the rate structure nor the regulatory system is designed or administered to allow excess profits generated on major city routes to cross-subsidize small town service. In addition, industry carriers have repeatedly told us that there are no excess profits in the system. This makes it difficult to find the source of any cross-subsidy. Further, it is not often that the same carrier serves both rural and non-rural routes. Rural routes are often served by carriers operating only in those areas. It would be impossible for a cross-subsidy to exist in these cases. Yet carriers continue to offer service, presumably because it is profitable.

#### The Common Carrier Obligation

A second assertion is made, that were it not for the common carrier obligation imposed on ICC-regulated carriers, small communities would receive little or no service. We question this argument as well.

There is no evidence that the ICC bars exit by carriers in cases where small town service is unprofitable. Small community service is often abandoned by carriers that do not even bother to notify the ICC. As far as we can determine, when a carrier wants to stop service, it merely stops. Due to limited resources, the ICC is unable to monitor service levels or to ensure that carriers perform even

minimal service.

A recent study<sup>2/</sup> funded by the Department clearly demonstrates that shippers and receivers in small communities have to meet their business needs in the face of inadequate service by ICC-regulated carriers. This study analyzed the level of motor carrier service provided to small communities located in contiguous areas of the States of Utah, Idaho, Montana, Washington and Oregon.

This area is characterized by low population density, few large population centers, and relatively great distances between communities. Excluding Seattle and Portland, only 19 cities with 1975 populations exceeding 20,000 are in the study area. There are, on the other hand, 224 communities with populations between 500 and 1,000 located in this region.

This study examined the behavior of 15 major regular-route carriers of general commodities that serve the study area. The carriers had annual operating revenues ranging from \$2 million to \$600 million.

Mr. Chairman, this is a very revealing study. It indicates that under the present system carriers serve only the markets that are profitable in the context of their specific operating networks. If service cannot be offered profitably, then the community simply isn't served.

2/ D.A. Breen and B. Allen, Common Carrier Obligations and the Provision of Motor Carrier Service to Small Rural Communities, prepared for the U.S. Department of Transportation, DOT-RC-82022, July 1979.

The study found that ninety of the 127 communities in the region studied with populations over 2,500 and authorized service from at least one carrier studied were not being served by all of the carriers certificated to provide service. As the size of the community declined, the level of service provided by regulated carriers declined.

The study also determined that the larger carriers are less likely to serve small communities than smaller carriers because small communities are less likely to fit into the service networks of the large carriers.

The lack of enforcement of the common carrier obligation is particularly evident in detailed studies of eight small communities in the study region. These communities were selected from a four-state area (Washington, Oregon, Idaho, Montana) within a 150-mile radius of Pullman, Washington. The communities had 1970 populations of roughly 1,000 to 3,700 and are representative of most of the small communities in the study region.

The carriers authorized to serve these communities are not providing service to the full extent of their authority. None of the communities receive direct service from all of the authorized study carriers. In fact, only 35 percent of the carriers serve these communities and three of the eight case study communities receive no service from the study carriers.

The study also paid particular attention to the level of small community service provided by carriers who acquired ICC certificates which covered small towns. There have been 16 certificate acquisitions

involving the relevant study region and carriers since the early 1960's. The study found that numerous intermediate and off-route communities are not being served by acquiring carriers. In fact, only two of the 16 carriers actually served all required communities.

Mr. Chairman, the charts I have attached to my statement show that many of the individual ICC-regulated carriers involved in these 16 certificate acquisitions are not fulfilling the common carrier obligation. On these charts, the blackened dots indicate towns which are receiving service from the specified carrier, while the unblackened dots show points not receiving service, even though they are listed on the carrier's operating authority.

The study also found that small town service is more likely to be inadequate in areas experiencing long-term economic decline. In these communities, regulated carriers often stopped providing service even though they still had their common carrier obligation. For example, in those counties where the level of economic activity had declined between 1967 and 1975, the total number of carrier-points<sup>3/</sup> served declined by 21 percent. In 1975, only 47 percent of authorized carrier-points were receiving service. For example:

Bear County, Idaho has a total of 17 authorized carrier-points.

In 1967, 13 of these points received service, but by 1975 this

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<sup>3/</sup> Service to a town by any one carrier constitutes a carrier point. A town once served by five carriers, which now receives service by three has experienced a decline in service of two carrier points.

number had declined to eight. Only two of the three carriers authorized to provide service in this county continued to serve the area.

Jefferson County, Idaho has 18 authorized carrier-points. Fourteen of these points received service in 1967, but only nine continued to be served in 1975. Further, only one of the three authorized study carriers was providing this service.

Baker County, Oregon is served by four carriers and has 11 authorized carrier points. Nine of these carrier-points were served in 1967, but only five received service in 1975, a 36 percent drop in service.

Lincoln County, Washington has five carriers authorized to provide service to 36 carrier-points. In 1967, 64 percent of these points received service, but by 1975, only 28 percent were continuing being served. In addition, two of the authorized study carriers stopped providing service to this area between 1967 and 1975.

Similar results were obtained for the period between 1960 and 1967, in which a 54 percent decline in service was registered and only 40 percent of the authorized carrier-points were receiving service from the study carriers:

Judith Basin County, Montana has five authorized carrier-points. In 1960, the one authorized carrier for the area was serving all of these points. By 1967, however, this carrier had pulled out of Judith Basin County entirely.

Adams County, Idaho has two carriers authorized to serve eight carrier-points. All points received service in 1960, but this number was reduced to four by 1967, and one of the authorized carriers had dropped all service to this area.

Gilliam County, Oregon has ten authorized carrier-points and three carriers authorized to provide this service. In 1960, 70 percent of the carrier-points received service. In 1967, however, only 40 percent of the carrier-points were still being served. In addition, one of the study carriers had stopped providing service to this area.

Mr. Chairman, this study makes it clear that the ICC's enforcement of the common carrier obligation is inadequate to prevent carriers from either completely withdrawing service or severely lowering the quality of service they provide. The ICC simply does not have the resources to effectively monitor service in this industry.

How do shippers and receivers of freight located in these low-density markets cope with inadequate service from ICC-regulated common carriers? Actually, surprisingly well. They rely upon private carriage, bus package express, local intrastate carriers, and United Parcel Service. In fact, the Department of Agriculture has estimated that non-ICC regulated carrier supply about 80 percent of small community service. And while service to these markets can in fact be profitable -- as evidenced by the service provided by the smaller intrastate and interstate for-hire carriers who largely serve these markets --

it appears that large ICC-regulated carriers often prefer to bypass small communities in favor of those communities that tender either more traffic or traffic that carries a higher rate.

#### Reform Would Improve Small Community Service

We believe that small town markets could be better served, with accompanying reductions in operating costs and fuel use, by smaller carriers who tailor their operating, marketing, and investment strategies to serving shippers and receivers located in these communities. Better service would also result if smaller established carriers, as well as new entrants were allowed in these markets, forcing the larger carriers to work harder to keep their present business. Unfortunately, because of entry barriers and other regulations, smaller carriers often are not permitted access to these markets. In other words, not only does the current system not keep carriers in, it keeps them out.

There are a number of simple reforms which can be undertaken to provide better and less costly service to small communities. For example, removing restrictions on intermediate stops could be quite helpful. This change would allow carriers wishing to provide service to communities which they pass through but do not have authority to serve. Easing entry standards for carriers offering to provide service into communities no longer being served by an authorized carrier or a railroad would also help. In addition, easing entry procedures for those carriers wishing to specialize in providing small shipment service would improve the quality of motor freight

service these markets receive.

We would take these steps and others to correct many of the transportation problems that plague small communities. We believe our bill offers the most efficient and equitable way to ensure that small communities receive necessary and reliable trucking service.

There are at least eight provisions in our bill which will improve trucking service to small communities.

1. The general policy statement governing ICC decisions emphasizes small community service.
2. The public convenience and necessity standard emphasizes increased service to small communities.
3. Route restrictions are liberalized to permit carriers to serve intermediate points, whether or not they are on a carrier's designated route.
4. The program for phased route expansion without ICC approval will emphasize increased service to small communities.
5. The agricultural commodity and agricultural co-op exemptions are substantially broadened, thereby reducing empty backhauls and ensuring improved small community service.
6. Increased pricing flexibility will allow lower backhaul rates to small communities.
7. Any fit, willing, and able carrier may enter a market which an authorized carrier no longer serves or which a railroad abandons.

8. Easier entry for buses and trucks to transport shipments of 500 pounds or less will promote service to small towns.

Mr. Chairman, in addition to these new provisions designed to promote small community service, let me also emphasize that our bill does not make any changes to the exit provisions of present law. It is clear that trucking is too vast an industry to ever monitor completely but, to the extent that the common carrier obligation stands as a matter of law, our bill would do nothing to limit the ICC's present authority to utilize that law.

Summary

In sum, Mr. Chairman, we have always believed that small communities as well as other areas would benefit from motor carrier regulatory reform. Fears that reform will reduce the present level of service to small communities are not well founded. In many instances, small communities are forced to get by despite inadequate service from common carriers. The ICC is not, and could not, be reasonably equipped to monitor service to small communities to prevent this from occurring. In fact, despite the common carrier obligation, many regulated carriers serve small communities only when it is profitable for them to do so. Mr. Chairman, our bill will provide new opportunities to serve small communities to carriers who could do so profitably, and those carriers will certainly provide service. The points I just discussed, both singly and together, will significantly enhance the level of service received by many small communities.

Thank you, Mr. Chairman, for the opportunity to appear before you to discuss this important issue. At this time I would be pleased to answer any questions the Committee might have.